

TRANSLATION**PATENT COOPERATION TREATY****PCT****INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PHM/CM/BR049093	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/FR2004/003175	International filing date (<i>day/month/year</i>) 09.12.2004	Priority date (<i>day/month/year</i>) 15.12.2003
International Patent Classification (IPC) or national classification and IPC B25D17/08		
Applicant MONTABERT		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/003175

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-5 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-8 _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/3-3/3 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/003175

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1.	Statement		
	Novelty (N)	Claims <u>3, 6</u>	YES
		Claims <u>1, 2, 4, 5, 7, 8</u>	NO
	Inventive step (IS)	Claims _____	YES
		Claims <u>1-8</u>	NO
	Industrial applicability (IA)	Claims <u>1-8</u>	YES
		Claims _____	NO
2.	Citations and explanations (Rule 70.7)		
1.1	Reference is made to the following documents:		
	D1: FR 2 234 967 (UPAT-MAX LANGENSIEPEN KG) 24 January 1975		
	D2: US 688 860 A (KAY JAMES & WEARNE CHARLES T) 17 December 1901		
	D3: US-A-2 224 063 (ROBERTS SAMUEL S) 3 December 1940 (1940-12-03)		
2.1	The present application fails to meet the requirements of PCT Article 33(1), since the subject matter of claim 1 does not comply with the criterion of novelty as defined by PCT Article 33(2).		
2.2	D1 describes (the references between parentheses apply to said document):		
	<p>a cotter-retaining device (20) of a tool for an impact demolition apparatus (10), wherein the tool (13) mounted in a body (40) of the apparatus is retained by a transverse cotter (20) inserted into a recess (15) in the tool; the cotter (20) is inserted into a bore (19) in the body; the area of the body (40) comprising the bore (19) for the insertion of the cotter (29) is provided with a covering shell (50); said shell (50) is capable of occupying a first position (see figure 6) in which it at least partially caps the bore (19) and a</p>		

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	<p>second position (when the free ends (51, 52) of the shell engage either the lateral face (25) or the head of the cotter (20) - see page 7, line 25 to page 8, line 26) in which the bore (19) is cleared, so as to enable the insertion or withdrawal of the cotter (20).</p> <p>The subject matter of claim 1 is therefore not novel (PCT Article 33(1) and (2)).</p> <p>2.3 D2 describes (the references between parentheses apply to said document):</p> <p>a cotter-retaining device (14) of a tool for (suitable for use with) an impact demolition apparatus, wherein the tool mounted in a body (6) of the apparatus is retained by a transverse cotter (14) inserted into a recess (12) in the tool; the cotter (14) is inserted into a bore (9) in the body (6); the area of the body (6) comprising the bore (9) for the insertion of the cotter (14) is provided with a covering shell (15); said shell (15) is capable of occupying a first position (see page 2, lines 20 to 28) in which it at least partially caps the bore (9) and a second position (see page 2, lines 6 to 20) in which the bore (9) is cleared, so as to enable the insertion or withdrawal of the cotter (14).</p> <p>The subject matter of claim 1 is therefore also known from D2 (see in particular page 1, line 27 to page 2, line 5).</p> <p>2.4 The subject matter of claim 1 is also known from the other documents marked X in the international search report.</p> <p>3.1 Dependent claims 2 to 8 contain no feature which, when combined with the features of any one of the claims to</p>

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/003175

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>which they refer, defines subject matter that complies with the PCT requirements of novelty and/or inventive step, for the following reasons:</p> <p>3.2 The additional features of claims 2, 4, 5, 7 and 8 are also known from D1 (see the passages and figures cited in the international search report).</p> <p>3.3 The additional features of claims 2, 4, 5, and 7 are also known from D2 (see the passages and figures cited in the international search report).</p> <p>3.4 To a person skilled in the art, using spring steel as the material for the shell according to claim 3 would be the obvious choice, as suggested in D1 by the use of the term "spring blade" and in D2 by the use of the term "spring metal" (page 2, line 6). The shell of D3 (see page 1, right-hand column, lines 42 to 45) is an example of the use of spring steel for the same purpose. The selection of this material according to claim 3 therefore does not involve an inventive step.</p> <p>3.4 A slight alteration to the construction of the retaining device described in D2 is defined in claim 6. Said alteration is part of the standard practice of a person skilled in the art and the resulting advantages are easily foreseeable. Consequently, the subject matter of claim 6 does not involve an inventive step either.</p>